

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

CARPENTERS' DISTRICT COUNCIL OF )  
GREATER ST. LOUIS AND VICINITY, and )  
TERRY M. NELSON, JOHN P. MULLIGAN, )  
PATRICK J. SWEENEY, III, RENEE BELL, )  
THOMAS G. HEINSZ, JOHN W. FISCHER, )  
CARMELO D. CAPUTA, KEN STRICKER, )  
JAMES, P. SCHMID, KIRK VERSEMAN, )  
ALBERT BOND, ROBERT CALHOUN, RON )  
DICUS and ANGELO LANCIA, in their )  
representative capacities as trustees of the )  
CARPENTERS' PENSION TRUST FUND OF )  
ST. LOUIS, and TERRY M. NELSON, JOHN P. )  
MULLIGAN, PATRICK J. SWEENEY, III, )  
RENEE BELL, THOMAS G. HEINSZ, JOHN W. )  
FISCHER, CARMELO D. CAPUTA, KEN )  
STRICKER, MICHAEL T. THUSTON, KIRK )  
VERSEMAN, SCOTT BYRNE, ROBERT )  
CALHOUN, RON DICUS and ANGELO LANCIA )  
in their representative capacities as trustees of the )  
CARPENTERS' HEALTH AND WELFARE )  
TRUST FUND OF ST. LOUIS, and TERRY M. )  
NELSON, JOHN P. MULLIGAN, PATRICK J. )  
SWEENEY, III, RENEE BELL, THOMAS G. )  
HEINSZ, JOHN W. FISCHER, CARMELO D. )  
CAPUTA, KEN STRICKER, JAMES P. SCHMID, )  
KIRK VERSEMAN, ROBERT CALHOUN and )  
RON DICUS in their representative capacities as )  
trustees of the CARPENTERS' VACATION )  
TRUST FUND OF ST. LOUIS and TERRY M. )  
NELSON, RENEE BELL, PATRICK J. )  
SWEENEY, III, ROBERT BEHLMAN, THOMAS )  
G. HEINSZ, DOYLE PAUL, MICHAEL T. )  
THUSTON, TONY PRINCE, RON DICUS, and )  
ROBERT WOLF in their representative capacities )  
as trustees of the CARPENTERS' JOINT )  
TRAINING FUND OF ST. LOUIS, )  
)  
Plaintiffs, )  
)

No. 4:08-CV-389 CAS

|  |   |
|--|---|
| v.                                     | ) |
|  | ) |
| BERRY CONCRETE CONSTRUCTION            | ) |
| INCORPORATED, an administratively      | ) |
| dissolved Illinois corporation, and    | ) |
| TIMOTHY D. BERRY, an individual, d/b/a | ) |
| BERRY CONCRETE CONSTRUCTION            | ) |
| INCORPORATED,                          | ) |
|  | ) |
| Defendants.                            | ) |

### **DEFAULT JUDGMENT**

Plaintiffs filed this action on March 20, 2008 to recover from defendants Berry Concrete Construction Incorporated and Timothy D. Berry d/b/a Berry Concrete Construction Incorporated delinquent fringe benefit contributions, liquidated damages, and interest owed to the plaintiff benefit funds pursuant to the Employee Retirement Income Security Act, 29 U.S.C. § 1132(g)(2) (“ERISA”). Plaintiffs also seek an award of their attorneys’ fees against both defendants, jointly and severally. Defendants have not appeared, and plaintiffs move for default judgment, submitting in support of their motion the affidavits of Juli Laramie and Greg A. Campbell.

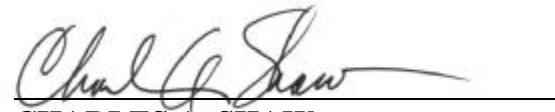
Under ERISA, 29 U.S.C. § 1132(g)(2) and § 1145, and under the applicable collective bargaining agreement, defendants Berry Concrete Construction Incorporated and Timothy D. Berry d/b/a Berry Concrete Construction Incorporated owe \$7,914.23 in delinquent fringe benefit contributions, \$1,582.85 in liquidated damages and \$469.93 in interest for the period of October 2007 through January 31, 2008. The collective bargaining agreement and ERISA, 29 U.S.C. § 1132(g)(2), require delinquent employers to pay plaintiffs’ attorneys’ fees and costs. Plaintiffs incurred \$487.50 in legal fees and \$582.64 in court costs. Based on the evidence presented, the Court finds that the services performed by plaintiffs’ attorneys were reasonable and necessary to the litigation of this case, that the rates charged were reasonable, and that the amount sought for attorneys’ fees is reasonable.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiffs' motion for default judgment is granted. [Doc.

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**IT IS FURTHER ORDERED, ADJUDGED and DECREED** that the Clerk of the Court shall enter judgment by default in favor of plaintiffs and against defendants Berry Concrete Construction Incorporated and Timothy D. Berry d/b/a Berry Concrete Construction Incorporated, jointly and severally, in the amount of Eleven Thousand Thirty-Seven Dollars and Fifteen Cents (\$11,037.15), as and for delinquent fringe benefit contributions, liquidated damages, interest, court costs and attorneys' fees.



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CHARLES A. SHAW  
UNITED STATES DISTRICT JUDGE

Dated this 1st day of July, 2008.